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BEFORE THE  
**Federal Communications Commission**  
 WASHINGTON, D C 20554

MAR 12 2003

FEDERAL COMMUNICATIONS COMMISSION  
 OFFICE OF THE SECRETARY

In the Matter of

Amendment of Section 73.622(b),	)	MM Docket No. 00-180
Table of Allotments, Digital	)	RM-9956
Television Broadcast Stations	)	
(Fort Myers, Florida)	)	
	)	
TO: Chief, Video Services	)	
Division, Media Bureau	)	

**REPLY TO**  
**OPPOSITION TO "PETITION FOR RECONSIDERATION"**

Caloosa Television Corporation (Caloosa), by its attorney, hereby respectfully submits its Reply to the "Opposition to Petition for Reconsideration" filed by Fort Myers Broadcasting Company (FMBC). In so doing, the following is shown:

1. FMBC's sole argument against Caloosa's Petition is FMBC's claim that WBSP-LP forfeited its license by operation of Section 312(g) of the Communications Act of 1934, as amended, 47 U.S.C. §312(g).

2. WBSP-LP has never been off the air for 365 consecutive days, or for one full year. The statute in question, 47 U.S.C. §312(g), only allows *the* Commission to automatically cancel a license where the station has been off the air and has not broadcast for one full year. FMBC cites no precedent to the contrary. In fact, we are aware

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of at least one case, **WRHC Broadcasting Corporation**, 15 FCC Rcd 5551 (2000), where the station in question, WRHC(AM), Coral Gables, Florida, operated for over two years, and for more than one full year after the effective date of Section 312(g) on the wrong frequency (1560 kHz, rather than its licensed allocation of 1550 kHz) at an unauthorized location. This violation did not incur the automatic license cancellation contemplated by Section 312(g), apparently because the station did operate in some shape or form.

3. In the instant case, WBSP-LP did operate between June 14 and June 22, 1999 from a site which had been approved by the Commission's staff in an STA granted July 23, 1998. At no time did WBSP-LP operate from a site which had never been approved. Therefore, Section 312(g) does not apply in this case, because WBSP-LP did in fact return to the air before the one year anniversary of its becoming "dark" took place.

**WHEREFORE**, Caloosa Television Corporation urges that this "Petition for Reconsideration" **BE GRANTED**, and that, alternatively, the petition of Fort Myers Broadcasting Company to allocate digital channel 9 to Fort Myers, Florida (in lieu of digital channel 53) **BE DENIED**, or that the "Report and Order" in MM Docket No. 00-180 **BE VACATED** and that the proceeding **BE RETURNED TO PENDING STATUS**.

Respectfully submitted,

**CALOOSA TELEVISION CORPORATION**

By 

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March 12, 2003

## CERTIFICATE OF SERVICE

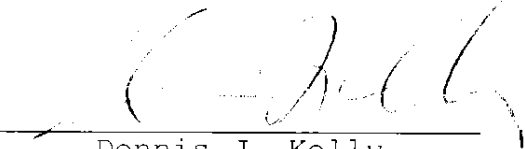
It is hereby certified that a true copy of the foregoing "Reply etc." was served by first-class United States mail, postage prepaid, on this 12<sup>th</sup> day of March, 2003 upon each of the following:

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